

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

EGENERA, INC.,

Plaintiff

v.

CISCO SYSTEMS, INC.,

Defendant.

Civil Action No. 1:16-cv-11613-RGS

**DECLARATION OF SCOTT S. TAYLOR IN SUPPORT OF EGENERA’S MOTION
FOR A NEW TRIAL PURSUANT TO FED. R. CIV. P. 59**

I, Scott. S. Taylor, hereby declare as follows:

1. I am an attorney admitted to practice in the state of Massachusetts.

2. I am an attorney at the law firm of Ropes & Gray LLP, in Boston, Massachusetts.

Ropes & Gray LLP is counsel for Plaintiff Egenera, Inc. (“Egenera”) in the above-captioned civil action.

3. I submit this declaration in support of Egenera’s Motion for a New Trial Pursuant to Federal Rule of Civil Procedure 59 (“Egenera’s Motion for a New Trial”). Unless otherwise stated, I have personal knowledge of the facts and circumstances stated below and, if called upon to testify, I could and would testify competently to the statements made herein.

4. Submitted with Egenera’s Motion for a New Trial as **Exhibit 1** is an excerpt of a true and correct copy of the August 2, 2022 transcript of the jury empanelment session on Jury Trial Day One, *Egenera, Inc. v. Cisco Sys. Inc.*, No. 16-11613-RGS (D. Mass. Aug. 2, 2022) (Dkt. 485).

5. Submitted with Egenera's Motion for a New Trial as **Exhibit 2** is an excerpt of a true and correct copy of the transcript of Jury Trial Day One, *Egenera, Inc. v. Cisco Sys. Inc.*, No. 16-11613-RGS (D. Mass. Aug. 2, 2022) (Dkt. 486).

6. Submitted with Egenera's Motion for a New Trial as **Exhibit 3** is an excerpt of a true and correct copy of the transcript of Jury Trial Day Two, *Egenera, Inc. v. Cisco Sys. Inc.*, No. 16-11613-RGS (D. Mass. Aug. 3, 2022) (Dkt. 487).

7. Submitted with Egenera's Motion for a New Trial as **Exhibit 4** is an excerpt of a true and correct copy of the transcript of Jury Trial Day Three, *Egenera, Inc. v. Cisco Sys. Inc.*, No. 16-11613-RGS (D. Mass. Aug. 4, 2022) (Dkt. 489).

8. Submitted with Egenera's Motion for a New Trial as **Exhibit 5** is an excerpt of a true and correct copy of the transcript of Jury Trial Day Five, *Egenera, Inc. v. Cisco Sys. Inc.*, No. 16-11613-RGS (D. Mass. Aug. 8, 2022) (Dkt. 492).

9. Submitted with Egenera's Motion for a New Trial as **Exhibit 6** is an excerpt of a true and correct copy of the transcript of Jury Trial Day Six, *Egenera, Inc. v. Cisco Sys. Inc.*, No. 16-11613-RGS (D. Mass. Aug. 9, 2022).

10. Submitted with Egenera's Motion for a New Trial as **Exhibit 7** is an excerpt of a true and correct copy of the transcript of Jury Trial Day Seven, *Egenera, Inc. v. Cisco Sys. Inc.*, No. 16-11613-RGS (D. Mass. Aug. 10, 2022) (Dkt. 493).

11. Submitted with Egenera's Motion for a New Trial as **Exhibit 8** is an excerpt of a true and correct copy of the transcript of Jury Trial Day Eight, *Egenera, Inc. v. Cisco Sys. Inc.*, No. 16-11613-RGS (D. Mass. Aug. 11, 2022) (Dkt. 494).

12. Submitted with Egenera's Motion for a New Trial as **Exhibit 9** is an excerpt of a true and correct copy of the transcript of Jury Trial Day Nine, *Egenera, Inc. v. Cisco Sys. Inc.*, No. 16-11613-RGS (D. Mass. Aug. 12, 2022) (Dkt. 495).

13. Submitted with Egenera's Motion for a New Trial as **Exhibit 10** is an excerpt of a true and correct copy of the transcript of the Jury Charge Conference on Jury Trial Day Nine, *Egenera, Inc. v. Cisco Sys. Inc.*, No. 16-11613-RGS (D. Mass. Aug. 12, 2022).

14. Submitted with Egenera's Motion for a New Trial as **Exhibit 11** is an excerpt of a true and correct copy of the transcript of Jury Trial Day Ten, *Egenera, Inc. v. Cisco Sys. Inc.*, No. 16-11613-RGS (D. Mass. Aug. 15, 2022) (Dkt. 496).

15. Submitted with Egenera's Motion for a New Trial as **Exhibit 12** is an excerpt of a true and correct copy of the transcript of the July 25, 2022 Final Pretrial Conference, *Egenera, Inc. v. Cisco Sys. Inc.*, No. 16-11613-RGS (D. Mass. July 25, 2022) (Dkt. 484).

16. Submitted with Egenera's Motion for a New Trial as **Exhibit 13** is an excerpt of a true and correct copy of Trial Exhibit JTX-0562, which is a Cisco document titled "Unified Computing System - Pioneer Award Nomination Presentation."

17. Submitted with Egenera's Motion for a New Trial as **Exhibit 14** is an excerpt of a true and correct copy of Trial Exhibit JTX-0564, which is a copy of U.S. Patent No. 7,424,533.

18. Submitted with Egenera's Motion for a New Trial as **Exhibit 15** is an excerpt of a true and correct copy of Trial Exhibit JTX-0565, which is a copy of U.S. Patent No. 7,599,360.

19. Submitted with Egenera's Motion for a New Trial as **Exhibit 16** is an excerpt of a true and correct copy of Trial Exhibit JTX-0566, which is a copy of U.S. Patent No. 7,916,628.

20. Submitted with Egenera's Motion for a New Trial as **Exhibit 17** is an excerpt of a true and correct copy of Trial Exhibit JTX-0567, which is a copy of U.S. Patent No. 7,564,869.

21. Submitted with Egenera's Motion for a New Trial as **Exhibit 18** is an excerpt of a true and correct copy of Trial Exhibit JTX-0568, which is a copy of U.S. Patent No. 8,249,069.

22. Submitted with Egenera's Motion for a New Trial as **Exhibit 19** is an excerpt of a true and correct copy of Trial Exhibit JTX-0569, which is a copy of U.S. Patent No. 8,589,919.

23. Submitted with Egenera's Motion for a New Trial as **Exhibit 20** is an excerpt of a true and correct copy of Trial Exhibit JTX-0571, which is a copy of Egenera, Inc.'s Objections and Responses to Cisco Systems, Inc.'s First Set of Requests for Admission, dated February 26, 2018.

24. Submitted with Egenera's Motion for a New Trial as **Exhibit 21** is an excerpt of a true and correct copy of Cisco Trial Demonstrative DDX5, used during the direct testimony of Dr. Kevin Jeffay.

25. Submitted with Egenera's Motion for a New Trial as **Exhibit 22** is an excerpt of a true and correct copy of Cisco Trial Demonstrative DDX12, used during Cisco's closing argument, to which no modifications have been made.

26. Submitted with Egenera's Motion for a New Trial as **Exhibit 23** is an excerpt of a true and correct copy of an email from James Gibbons to William Richard Allen regarding "[E]mpanelment," dated August 11, 2022.

27. Submitted with Egenera's Motion for a New Trial as **Exhibit 24** is an excerpt of a true and correct copy of the Northern District of California's Model Patent Jury Instructions as updated in October 2019.

28. Submitted with Egenera's Motion for a New Trial as **Exhibit 25** is an excerpt of a true and correct copy of a Law 360 news article entitled "Cisco Cleared in \$371M Software Patent Trial," dated August 15, 2022.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 27th day of October 2022 in Boston, Massachusetts.

/s/ Scott S. Taylor

Scott S. Taylor

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document filed through the Electronic Case Filing (“ECF”) system on October 27, 2022, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

/s/ Scott S. Taylor
Scott S. Taylor